

Status of the Hungry Horse Negotiations



Clark Fork Task Force

- 85-2-350 MCA authorized the Clark Fork River Basin Task Force and directed it to write a water management plan for the Clark Fork basin.
- Statute requires the Task Force to be representative of basin in terms of geography and water interests.
- Members are appointed by DNRC Director
- Confederated Salish and Kootenai Tribes (CSKT) can designate a member.

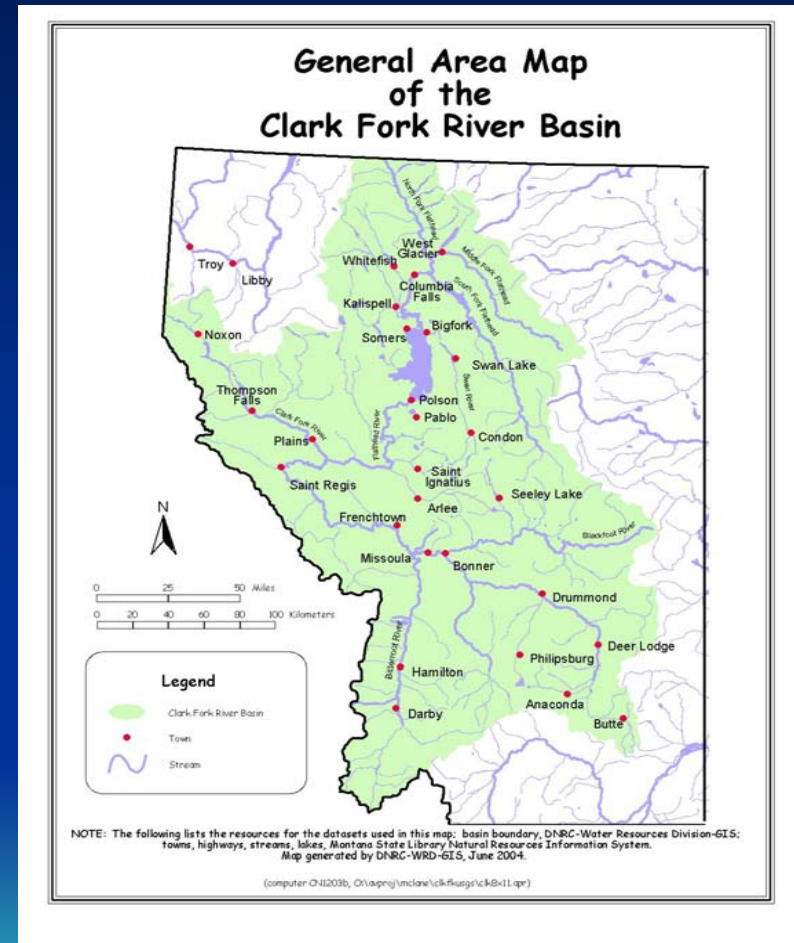


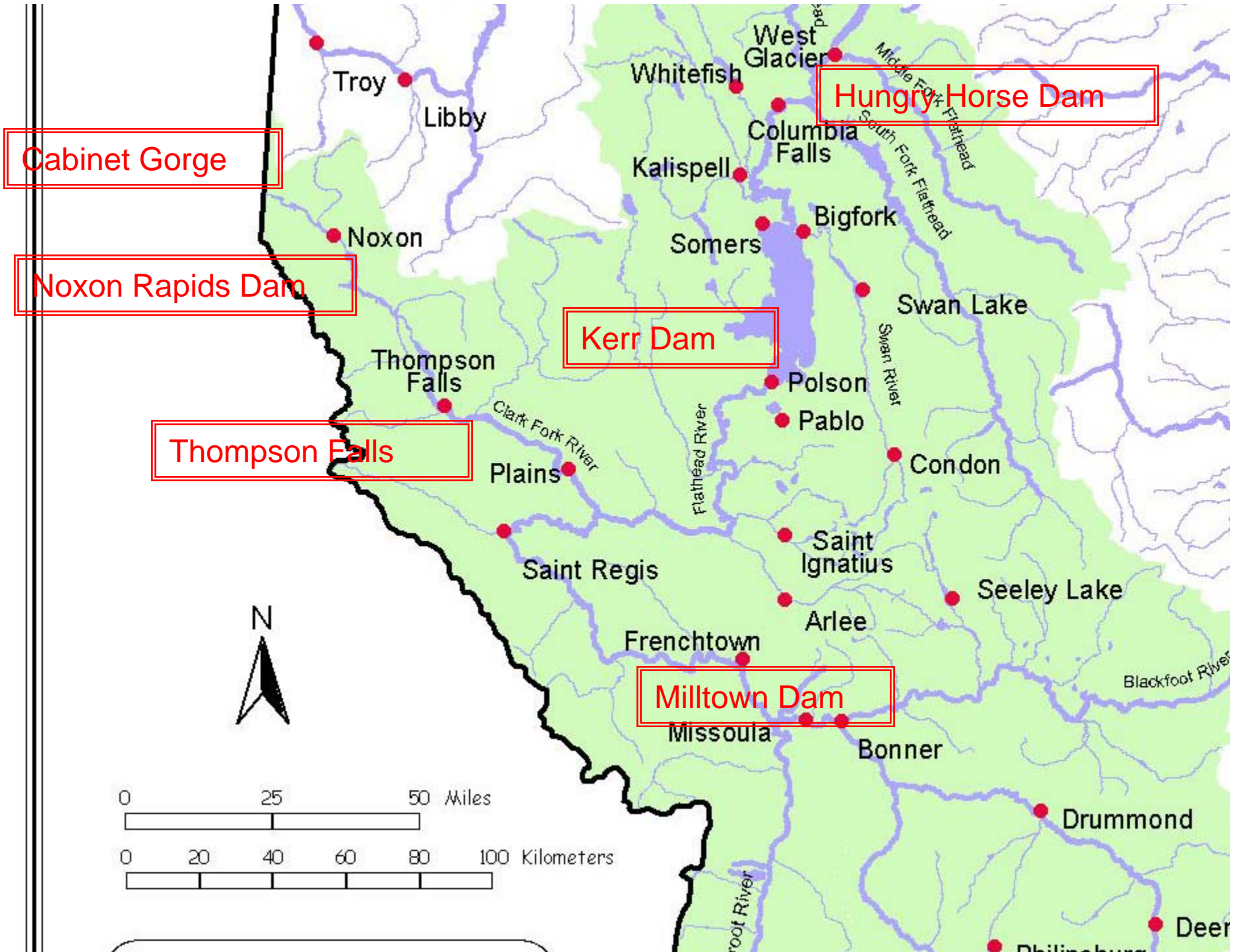
Current Task Force Members

	Organization	Area or Interest Represented
• Marc Spratt	Flathead Conservation Dis.	Flathead Basin above Flathead Lake
• Caryn Miske	Flathead Basin Commission	Flathead Lake
• Ted Williams	Flathead Lakers	Flathead Lake
• Charles Lapp	Flathead Building Association	Building industry in the Flathead Valley and Lake County
• Holly Franz	PPL Montana	Hydropower Utilities
• Nate Hall	Avista	Hydropower Utilities
• Steve Hughes	Joint Board of Control	Southern Flathead River subbasin
• Jim Elliott	Former State Senator, SD7	Lower Clark Fork subbasin
• Gail Patton	Sanders County Commissioner	Basin Local Governments
• Arvid Hiller	Mountain Water Company	Municipal water companies and the middle Clark Fork River subbasin
• Harvey Hackett	Bitter Root Water Forum	Bitterroot River subbasin
• Fred Lurie	Blackfoot Challenge	Blackfoot River subbasin
• Jim Dinsmore	Granite Conservation District & Upper Clark Fork River Basin Steering Committee	Upper Clark Fork River subbasin
• Brianna Randall	Clark Fork Coalition	Conservation/environmental organizations
• Bill Gardner	Liberty Drilling	Montana Water Well Drillers Association
• Verdell Jackson	State Senator, SD6	<i>Ex Officio</i>

Clark Fork River Basin Issues

- No water reserved for future use in the Clark Fork Basin.
- Lower basin hydro rights:
 - Constrain legal availability for new water rights; and
 - Put junior users at risk.





Nature of Hydropower Constraint

- Avista's rights at Noxon Rapids Dam total 50,000 cfs, almost all of the flows leaving the basin.
- Rights filled on average only 6 - 8% of the time, predominantly during 22 days in May and June of wet years.
- Surface water (and groundwater connected to surface water) may be legally available for future basin appropriations only when Avista's rights are filled.
- All water users with rights junior to Avista (1951, 1959 & 1974) and the PPL Montana dams at Kerr (1920) and Thompson Falls (1909 & 1992) appear to be at risk much of the time.
 - 65% of basin water uses are junior to the largest of Avista's hydropower right, including 5,500 surface rights.

DNRC Actions Regarding Basin Hydropower Water Rights

- In 2006 DNRC denied a surface water right permit to the Thompson River cogeneration plant because it would adversely affect Avista water rights.
- This decision has effectively closed the lower Clark Fork and the Flathead below the CSKT Reservation.
 - Appropriations less than 35 gpm and less than 10 acre feet per year are exempt.
- The Flathead River and its tributaries upstream of the CSKT Reservation Boundary is excluded from the Thompson River precedent and remain open to new water rights subject to the no adverse affects test.



Other Water Right Considerations

- CSKT Reservation closed by a Montana Supreme Court decision until a Tribal rights are determined via compact or litigation.
- CSKT will have senior rights in the basin, either 1855 or “time immemorial”.
- The Bitterroot and upper Clark Fork watersheds including the Blackfoot are closed by legislative closures.



Clark Fork Task Force Solution

- State of Montana (DNRC) contract with the US Bureau of Reclamation for water from Hungry Horse Reservoir.
- DNRC lease contract water to basin water users for new uses and to protect junior users against a call by lower basin hydropower right holders.



Solution Rationale

- Hungry Horse project purposes include: irrigation and reclamation of arid lands, flood control, improving navigation, regulating the flow of the South Fork of the Flathead River, generating electric energy and other beneficial uses primarily in the State of Montana, but also for downstream uses.
- BOR water right claims 3,500,000 acre-feet of storage for future sales, although no such contracts have been issued to date.



Availability of Water in Hungry Horse Reservoir

- Hungry Horse operation constrained by existing uses:
 - Flood control
 - Power generation
 - Flows for endangered fish



DNRC Request to BOR

- DNRC has requested a contract for 100k acre feet of water stored in Hungry Horse to meet additional municipal and industrial (M&I) consumptive uses over a 50 year period.
- DNRC and the BOR have a memorandum of understanding describing the scope of work leading up to the contract.



Current Status

- BOR is about to complete the first step in the contracting process, a cost reallocation study at a cost of \$260k.
- Task Force has requested 60 days to review the study before it is finalized.



Future Steps

- Complete National Environmental Policy Act compliance
- Negotiate the contract price
- Congressional approval



Additional Complications

- CSKT have requested a block of Hungry Horse storage as a part of compact process.
 - BOR is analyzing this request separately.
- Salmon biological opinion.



Hungry Horse Initiative Summary

- No water is currently reserved to supply new uses in the Clark Fork.
- Lower basin hydropower water rights have effectively closed the basin below the CSKT reservation boundary and put many junior uses at risk.
- Water stored in Hungry Horse could both provide for new uses and mitigate calls to junior water rights.



Questions?

